

APPENDIX E - COVER PAGE FOR ERRATA OF
APPEALED ORDERS REQUIRED AS ATTACHMENTS TO APPELLANTS'
OPENING BRIEF IN

Montana Supreme Court Docket DA 20-0313

This is the Table of Contents for the errata:

1	2	
Order Appealed	Bates or page #s	Opening Brief page where a reference to the Order appears
Lewis & Clark District Court Order Dismissing Cause # DV 2020-103, (Also Doc. Seq. 8)	pp. 1-7	throughout
PSC Order 7604o, (Also Appendix C 48)	Bates # 607-613	11-13, 37, 44
PSC Order 7604p, (Also Appendix C 52)	Bates # 631-636	11, 12, 20
PSC Order 7604s, (Also Appendix C 72)	Bates # 915-930	13, 20, 27
PSC Order 7604u, (Also Appendix C 94, Bates # 1789-1924)	Bates # 1789, 1795, 1798, 1842, 1867-1870, 1916	6, 8, 9, 16, 29, 36-40, 43-48

*Appellant's attorney mistakenly thought that because these orders were part of the Doc. Seq. record or a different appendix, that it would not be necessary to attach them to the opening brief when e-filing or submitting the paper follow-up. However, when I inquired if my initial thought was correct, the Court Clerk told me it is necessary to follow the non-e-filing Rule when submitting the 7 paper copies of the opening brief with appealed orders attached. **She said I could submit these as errata without the need to make a motion for acceptance.** My apologies.

**Because PSC Order 7604u is large, the attachment contains only pages relating to the appeal, so limited resource litigants and pro bono counsel do not have to pay to have unnecessary pages attached in this appendix E. A complete copy of Order 7604u is part of Appendix C2 which the Court is being asked to approve.

Service Date: December 20, 2019

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF NorthWestern Energy's) REGULATORY DIVISION
Application for Authority to Increase Retail)
Electric Utility Service Rates and for Approval) DOCKET NO. 2018.02.012
of Electric Service Schedules and Rules and) ORDER NO. 7604u
Allocated Cost of Service and Rate Design)

FINAL ORDER

TABLE OF CONTENTS

SUMMARY	4
PROCEDURAL HISTORY.....	7
FINDINGS OF FACT.....	10
I. Revenue Requirement.....	10
A. General Revenue Requirement & Settlement.....	10
B. Cost of Capital	15
C. Depreciation Expense	21
D. Excess Accumulated Deferred Income Tax Expense	25
E. PCCAM Base Costs.....	29
F. Fixed Cost Recovery Mechanism	32
G. 2018 Property Taxes	37
H. Colstrip.....	38
I. Two Dot Acquisition.....	41
J. FERC Transmission Revenue Credits	43
K. Hazard Tree Removal Program	44
L. Total Revenue Requirement & Refund.....	47
II. Cost Allocation and Rate Design.....	49
A. Cost Allocation	49
B. Rate Design.....	54
C. Net Metering Customer Class.....	57
D. WAPA/FEA Proposal	72
E. E+ Green Tariff Settlement.....	78
F. Street Lighting Tariff.....	79
G. After-Hours Reconnection Charge	83
H. Ancillary Tariff Revisions	85
III. Other Contested Issues.....	87
A. Colstrip Issues.....	88
B. Demand-Side Management Programs	100

programs and make recommendations as necessary. The Commission also rejects a 10% adder for DSM cost-effectiveness measurements, and continues the practice of requiring NorthWestern to expense DSM costs, tracked annually in NorthWestern's electricity supply cost tracker, as opposed to allowing those costs to be capitalized and included within NorthWestern's rate base.

15. The Commission declines to initiate a Colstrip investigation docket, to require community transition funds, and to require additional reporting requirements at this time.

16. The Commission declines to establish a residential crediting mechanism to allow the Federal Executive Agencies ("FEA") to receive credit for power transmitted to NorthWestern by WAPA. The Commission is interested in the proposal, however there is insufficient record evidence to support adopting the mechanism at this time. Rather, the Commission directs the parties to negotiate a mechanism for Commission approval. If the parties cannot agree, the Commission will initiate a subsequent contested case proceeding to address this proposal.

17. The Commission approves a settlement between several parties regarding NorthWestern's E+ Green tariff. This agreement will establish a stakeholder group that will review and assess NorthWestern's E+ Green program to determine if any revisions are warranted.

18. The Commission amends NorthWestern's ELDS-1 Tariff for street lighting customers based on the lighting class revenue requirement for base rate revenues resulting from NorthWestern's ECOS study, adjusted to reflect the Commission-approved stipulation on revenue requirement.

19. The Commission discontinues NorthWestern's annual compliance filing for the Spion Kop wind farm.

20. The Commission declines to establish an after-hours reconnection charge. The Commission also approves a variety of minor, uncontested changes to several NorthWestern tariffs as discussed below.

PROCEDURAL HISTORY

21. On September 28, 2018, NorthWestern filed its Application to Increase Retail Electric Utility Service Rates and for Approval of its Electric Service Schedules and Rules and Allocated Cost of Service and Rate Design ("Application") with the Commission.

22. NorthWestern requested a \$34,861,573 increase in annual base electric rate revenue, a 10.65% ROE and an overall 7.42% rate of return (except for CU4 which has a ROE of

FINDINGS OF FACT

33. This Order includes findings on various revenue requirement issues including NorthWestern's: general revenue requirement and settlement; cost of capital; depreciation expense; excess accumulated deferred income tax expense; electricity supply cost tracker base costs; FCRM pilot; regulatory plant adjustment functionalization; 2018 property taxes; Colstrip; Two Dot acquisition; FERC transmission revenue credits; hazard tree removal; and total revenue requirement and refund.

34. This Order also includes findings on various rate design issues including NorthWestern's: general rate design and settlement; monthly delivery service charges; irrigation customers; net metering customers; WAPA/FEA proposal; E+ Green tariff; street lighting tariff; after-hours reconnection charge; and ancillary tariff revisions.

35. This Order also includes findings on various other contested issues including: three issues related to Colstrip; NorthWestern's DSM programs; the MCC's request for a jurisdictional cost-of-service study; elimination of NorthWestern's annual Spion Kop compliance filing.

I. Revenue Requirement

A. General Revenue Requirement & Settlement

i. *Party Positions*

36. In its Application, NorthWestern requested an overall \$34,861,573 increase in its annual electric revenue requirement, including a \$3,045,750 reduction in its total generation revenue requirement. Test. Glenda Gibson at 3; Ex. NWE GJG-1 at 1; Statement G (Sep. 28, 2018). NorthWestern's overall increase and total generation revenue requirement include:

iii. ***Commission Finding***

168. The Commission approves the stipulated revenue allocation and customer charge rates. With the exception of the Barsantis' objection to street lighting rates, the non-stipulating parties did not object to the various RR Stipulation provisions. Signatories to the Stipulation include the utility and all parties that evaluated NorthWestern's cost studies and presented alternative allocation proposals. The Commission finds that the mix of interests represented among the stipulating parties is sufficiently diverse to produce class revenue allocations that are just and reasonable. Absent insight into the hierarchy of priorities for each of the stipulating parties, or the trade-offs made by the parties during settlement negotiations, the Commission has no reason to think an alternative allocation would improve upon the negotiated outcome in this case.

B. Rate Design

i. ***Party Positions***

169. NWE witness Normand proposes monthly customer charge increases for each class equaling 25% of the difference between current levels and full cost of service levels. *Id.* at 50. The only exception is the irrigation class, in which he capped the increase at 10% due to excessive customer impacts. *Id.* at 51. Within the general service classes, Normand proposes that customer charge increases for demand and non-demand customers should be approximately equal. *Id.* Normand asserts that his proposed increases to customer charges properly recover meter and service lateral costs, and reduce the current high level of cross subsidy that exists due to excessive energy rates. *Id.* at 52.

170. MCC witness Dismukes recommends that the Commission reject all of NorthWestern's proposed increases to monthly customer charges, because that high customer charges are not consistent with energy efficiency objectives and that they shift the within-class cost recovery burden to lower use customers. *Id.* at 59-62, 68, Ex. DED-10.

171. HRC/NRD witness Dr. Thomas Power recommends the Commission reject NorthWestern's proposed increase to the residential customer charge and retain the charge at its current level. Test. Thomas Power at 12, 14 (Feb. 13, 2019). Dr. Power states that the proposed increase of 37% to the residential customer charge is five times the size of increase in the average residential bill. *Id.* A disproportionate increase discourages energy efficient practice and disproportionately burden low volume and low income consumers. *Id.* at 13. Further, Power

262. NorthWestern states that a 120-day timeline to review the E+ Green program and study new renewable programs is too restrictive. Reb. Test. Schroepfel at 4. NorthWestern states that it is willing to review the programs, and would be willing to report back to the Commission with a recommended process and suggested deliverables, including a time-line that would be more appropriate than 120 days. *Id.* at 6-8.

263. On May 13, 2019, a Stipulation and Settlement Agreement between NorthWestern, DEQ, MCC, and Walmart was filed with the Commission related to NorthWestern's E+ Green tariff and other potential renewable energy products. The Stipulation requires NorthWestern to initiate a process to review its E+ Green program, which includes customer research and engagement with relevant stakeholders. The Stipulation also requires NorthWestern to make a filing to modify the existing E+ Green tariff, propose a new renewable energy product tariff, or justify maintaining the existing tariff without changes.

264. The Commission finds that the E+ Green Stipulation has no impact on current rates. The low customer subscribership illustrates that the tariffs, which have been in place for 17 years with minimal modifications, are not currently successful in attracting a customer response. Additionally, the price of RECs has declined over the period of the program, indicating the current E+ green rate could possibly be reduced. There is no opposition from the other intervenors in this docket to the Stipulation.

F. Street Lighting Tariff

i. Party Positions

265. In its Application, NorthWestern states that, for lighting, a simplified approach was used to set prices for the many lighting rates. Test. Normand at 54. NorthWestern explained that some lighting charges, e.g., operations, maintenance, and billing, were increased by a uniform 4.02%, while the ownership charges were based on the ECOS results with the same uniform increase for each rate. *Id.* The ownership charge was initially derived from the results of a marginal cost-of-service methodology in the general rate case of the Montana Power Company in 1996. Dkt. D2010.2.14, Ex (JS-2) at CAO-4 (Feb. 5, 2018).

266. In the Additional Issues identified in this case, the Commission included street lighting. Notice of Additional Issues, Dkt. D2018.2.12 (Mar. 1, 2019). The Commission requested that NorthWestern provide testimony that explains the differing treatment of the various lighting rates in the current rate proposal, as well as an explanation of NorthWestern's

method of allocating revenue requirement to each of the lighting charges (ownership, operation, maintenance, and billing). *Id.* ¶ 16. Further, the Commission sought explanatory and detailed information on how the ownership charges as proposed are derived from the ECOS results. *Id.*

267. In testimony on the additional issue of lighting, NorthWestern explains how each of the rate components of the lighting rate class were designed to achieve the proposed moderated base rate revenues. Add'l Issues Test. Normand at 2-3 (Mar. 22, 2019). NorthWestern states that in the ECOS study, the lighting class in total was producing a rate of return of 6.80%, compared to the total company rate of return of 6.43%. Similar to how rates were established for the other rate classes producing a higher rate of return than the total company rate of return, the increase in the base rate of the lighting class was set at 4.02% for the total of all of the lighting subclasses. The lighting subclasses include: Light Non Choice Company Owned; Light Non Choice Customer Owned; Light Choice Company Owned; Light Choice Customer Owned; Light Metered Non Choice Customer Owned; Light Metered Choice Customer Owned.

268. NorthWestern describes how the generation and generation property tax costs were determined for the lighting subclasses and explains that the base rates (excluding property taxes) for each of the lighting rate components—billing, maintenance, operations, billed meter, and ownership—were established uniformly for all subclasses by applying the base rate increase of 4.02% to present rates. *Id.* at 2.

269. NorthWestern states that the distribution base rate was calculated by subtracting all of the previously calculated proposed component revenues from the total proposed revenue target for the lighting class. *Id.* at 3.

270. NorthWestern explains that the generation costs for non-choice customers, the base rate, and property tax rates were set the same for all of the subclasses at a level to recover the total lighting base generation costs and generation property tax costs produced in the ECOS. The same procedure was performed in setting rates for all non-choice subclasses to recover the total lighting ECOS costs for Two Dot base and their property tax costs, and transmission base and property tax costs. A uniform property tax rate was calculated for distribution choice and non-choice based on the derived property tax levels from the ECOS results. *Id.*

271. Property tax rates for the separate rate components of billing, maintenance, operations, billed meter, and ownership charge were determined by spreading the ECOS costs based on present revenue levels. *Id.*

272. Base rates (excluding property taxes) for each rate component of billing, maintenance, operations, billed meter, and ownership were established uniformly for all subclasses by applying the base rate increase of 4.02% to present rates. *Id.*

273. The distribution base rate was then calculated by subtracting all of the previously calculated proposed component revenues noted above from the total proposed revenue target for the lighting class. *Id.*

274. The Barsantis raised several issues in their prehearing memorandum:

- a. Is the ownership charge in NorthWestern's ELDS-1 tariff unreasonable or unjustly discriminatory?
- b. Should NorthWestern normalize the revenue requirements for street lighting customer classes to include known changes by 2020 resulting from the transition to LED street lighting?
- c. Should NorthWestern be required to reduce its rate base for any high pressure sodium street lights removed from service after transitioning infrastructure to LED technology?
- d. Is NorthWestern recovering more than its original cost of its street lighting infrastructure, contrary to Mont. Code Ann. § 69-3-109, and if so subject to penalty under Montana's False Claims Act?
- e. Was the Commission's prior approval of ELDS-1 an illegal act?

275. The Amended Stipulation approved by the Commission authorizes an overall revenue increase of \$6.5 million for electric service, a decrease from the \$34.9 million increase requested by NorthWestern in its application. Test. Robert Rowe at 5; Amended Stipulation at 1. As a result of the stipulation, the revenue requirement adjustment in the lighting class for charges related to transmission and distribution is an increase of \$328,863 (+2.65%) from the existing revenue of \$12,387,441, and the adjustment for charges related to generation is a decrease of \$147,036 (-6.14%) from the existing revenue of \$2,395,286. Amended Stipulation attachment A at 3. The specified adjustments in the Amended Stipulation include both base rates and property tax.

ii. ***Commission Finding***

276. Evidence in this docket does not merit revisiting the issues raised by the Barsantis regarding whether the ownership charge is unreasonable or unjustly discriminatory, and whether NorthWestern is recovering more than its original cost of its street lighting infrastructure, as the Commission considered and decided those issues in a previous docket. *In re Gruba Complaint*,

Dkt. D2010.2.14, Order 7084aa ¶¶ 33–60 (Feb. 15, 2019). In addition, and as previously stated, the Commission finds that the Amended Stipulation is a reasonable resolution of issues presented in this case related to NorthWestern’s revenue requirement, and reasonably assigns responsibility for the revenue requirement to the various customer classes, including the lighting classes.

277. The Commission declines to address the Barsantis’ concerns regarding LED street lighting because NorthWestern’s LED replacement pilot project began in 2019, while the current rate case being discussed uses a historic test period of 2018. Further, no party provided substantial evidence supporting a rate base adjustment for a known and measurable change pursuant to Mont. Admin. R. 38.5.106 for the LED replacement project. The Commission concludes that any discussion on LED lighting is outside the scope of this docket.

278. With regard to the adjustment of charges within the lighting class, the Commission directs NorthWestern to file a lighting tariff that:

- a. is based on the lighting class revenue requirement for base rate revenues resulting from NorthWestern’s ECOS study, adjusted to reflect the Commission-approved Amended Stipulation and the revenue requirement therein;
- b. reflects the revenue adjustments of a total increase of \$328,863 from current revenue and a total decrease of \$147,036 from current revenue in the lighting class for charges related to transmission and distribution, and generation, respectively;
- c. reflects a uniform adjustment of all current lighting class base rate charges related to the transmission, distribution, and generation functions, by applying the magnitude of change between the current class revenue requirement and the stipulation-derived class revenue requirement for each of those two functions (i.e., an increase of 2.56% for charges related to transmission and distribution and a decrease of 6.14% for charges related to generation);
- d. reflects uniform adjustments, based on the functional percentage adjustments specified above, to both the base rate and property tax components at each level of the range of ownership charges;
- e. for each base charge in the lighting tariff calculated to a hundredth part of a dollar, including the operations, maintenance, billing, and ownership charges, any adjustment in the charge that does not increase or decrease by one cent through standard rounding practice shall be adjusted by one cent in order that these tariff rate elements will contribute to recovering the functional revenue allocations approved for the lighting class.

Exhibit 8 to Amended Stipulation
Page 1 of 2

Detailed Rate Comparison

Account	Plant	Current Parameters		NWE Proposal		MCC Proposal		MCC less Current Rates		MCC less Proposed Rates		
No.	Description	Rate	Accrual	Rate	Accrual	Rate	Accrual	Rate	Accrual	Rate	Accrual	
TRANSMISSION PLANT												
350.20	Land Rights and Rights-of-Way	30,727,757	1.71%	525,445	1.64%	503,935	1.68%	515,954	-0.03%	-9,491	0.04%	12,019
352.00	Structures and Improvements	30,995,178	2.02%	626,103	2.00%	619,904	2.03%	630,074	0.01%	3,971	0.03%	10,170
353.00	Station Equipment	249,370,391	2.20%	5,486,149	1.96%	4,887,660	1.44%	3,589,182	-0.76%	-1,896,967	-0.52%	-1,298,478
354.10	Towers and Fixtures	27,223,483	2.53%	688,754	2.30%	626,140	2.50%	680,959	-0.03%	-7,795	0.20%	54,819
354.20	Clearing Land and Rights-of-Way	1,504,241	1.93%	29,032	1.77%	26,625	1.90%	28,608	-0.03%	-424	0.13%	1,983
355.00	Poles and Fixtures	274,569,098	4.55%	12,487,651	3.77%	10,346,806	2.85%	7,084,042	-1.97%	-5,403,615	-1.19%	-3,262,764
355.20	Clearing Land and Rights-of-Way	5,070,927	2.11%	107,070	1.66%	84,341	1.85%	80,370	-0.53%	-26,700	-0.08%	-3,971
356.00	overhead Conductors and Devices	143,978,985	1.88%	2,702,346	1.83%	2,629,159	2.00%	2,874,328	0.12%	171,982	0.17%	245,169
356.10	Switching Station Equipment	14,656,645	2.17%	317,690	2.08%	304,166	2.16%	316,180	-0.01%	-1,510	0.08%	12,014
357.00	Underground Conduit	137,878	1.87%	2,577	1.55%	2,144	1.56%	2,152	-0.31%	-425	0.01%	8
358.00	Underground Conductors and Devices	1,410,535	2.71%	38,195	2.20%	31,043	2.10%	29,640	-0.61%	-8,555	-0.10%	-1,403
359.00	Roads and Trails	2,519,641	1.29%	32,463	1.23%	30,933	1.28%	32,225	-0.01%	-238	0.05%	1,292
Total Transmission Plant		782,164,759	2.95%	23,043,481	2.57%	20,092,856	2.03%	15,863,714	-0.92%	-7,179,767	-0.54%	-4,229,142
DISTRIBUTION PLANT												
360.20	Land Rights and Rights-of-Way	2,242,547	-0.42%	-9,406	-0.27%	-6,043	-0.54%	-12,025	-0.12%	-2,619	-0.27%	-5,982
361.00	Structures and Improvements	19,088,103	2.07%	395,438	2.02%	385,334	2.01%	384,605	-0.06%	-10,833	0.00%	-729
362.00	Station Equipment	205,014,444	2.31%	4,728,010	1.97%	4,045,737	1.66%	3,394,209	-0.65%	-1,333,801	-0.32%	-651,528
364.00	Poles, Towers and Fixtures	278,687,203	4.83%	13,460,212	4.97%	13,850,248	4.49%	12,510,393	-0.34%	-949,819	-0.48%	-1,339,855
365.00	Overhead Conductors and Devices	118,997,468	3.32%	3,950,765	3.87%	4,605,301	3.84%	4,564,035	0.52%	613,270	-0.03%	-4,126
366.00	Underground Conduit	116,024,132	2.07%	2,401,946	1.94%	2,251,064	1.91%	2,218,370	-0.16%	-18,356	-0.03%	-32,694
367.00	Underground Conductors and Devices	200,069,425	2.84%	5,676,212	3.20%	6,400,942	3.37%	6,735,767	0.53%	1,059,555	0.17%	334,825
368.00	Line Transformers	210,715,294	2.24%	4,713,967	2.28%	4,802,683	1.82%	3,839,491	-0.42%	-874,476	-0.46%	-963,192
369.10	overhead Services	34,429,051	3.83%	1,318,419	3.89%	1,339,490	3.81%	1,310,322	-0.02%	-8,097	-0.08%	-29,168
369.20	Underground Services	90,520,882	3.07%	2,778,672	3.15%	2,851,334	2.19%	1,986,364	-0.88%	-792,308	-0.96%	-864,970
370.00	Meters	41,971,710	3.22%	1,351,266	3.14%	1,317,738	2.91%	1,221,765	-0.31%	-119,501	-0.23%	-95,973
370.20	AMR Equipment	12,795,224	5.00%	639,761	5.00%	639,761	5.01%	641,056	0.01%	1,295	0.01%	1,295
373.10	Street Lighting Equipment	29,611,764	2.89%	855,741	2.96%	876,504	2.98%	882,572	0.09%	26,831	0.02%	6,068
373.20	Yard Lighting	1,724,326	4.22%	72,621	3.90%	672,448	3.11%	536,396	-1.11%	-191,225	-0.79%	-136,052
373.30	Post Top Lights	7,639,105	3.32%	253,607	3.29%	251,325	3.04%	232,382	-0.28%	-21,225	-0.25%	-18,943
Total Distribution Plant		1,385,048,678	3.12%	43,242,231	3.20%	44,283,866	2.92%	40,445,703	-0.20%	-2,796,528	-0.28%	-3,838,163

CERTIFICATE OF SERVICE

I, Russell L. Doty, hereby certify that I have served true and accurate copies of the foregoing
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